

**35218**

**SERVICE DATE – NOVEMBER 12, 2004**

**SURFACE TRANSPORTATION BOARD**

**WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-6 (Sub. No. 424X)**

**The Burlington Northern and Santa Fe Railway Company – Abandonment Exemption –  
in Dawson and McCone Counties, MT**

## **BACKGROUND**

In this proceeding, the Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for BNSF to abandon its line of railroad located between M.P. 7.00 near Glendive, Dawson County, Montana, and M.P. 50.41 in Circle, McCone County, Montana, a total distance of 43.41 miles. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, BNSF will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

## **DESCRIPTION OF THE LINE**

According to BNSF, the Glendive to Circle corridor was acquired by the Northern Pacific Railway (NP) in 1927. In 1970, the NP merged into the Burlington Northern Railroad (BN). In 1995, the BN merged with The Atchison Topeka and Santa Fe Railway to become BNSF.

The line connects the rural towns of Glendive, Lindsay and Circle. Lindsay is an unincorporated town. The 2000 census populations of Glendive and Circle were 4,729 and 644 respectively. The land adjoining the right-of-way is flat to rolling. The major crop in the area is wheat, with some barley produced. The rail corridor is 100 feet wide with varying width at former stations on the line. According to BNSF, the right-of-way may be suitable for use for other public purposes such as a trail. Title considerations may affect the conveyance of the land for use other than railroad purposes. The line does contain federally granted rights-of-way.

BNSF states that no traffic has moved over this line for at least two years and any overhead traffic on the line can be rerouted over other lines. There would be no diversion of traffic. According to BNSF, there are 11 public and 42 private railroad crossings on the line. During the salvage operations, BNSF will take precautions to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

There are fifteen bridges that are 50 years or older in the immediate area of the abandonment. All fifteen bridges are open pile trestle construction and were built between 1948 and 1954. The bridges vary in length from 17 feet to 590 feet.

## **ENVIRONMENTAL REVIEW**

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) in Glendive, Montana, has indicated that the abandonment, as proposed, will not affect any prime agricultural lands.

The National Geodetic Survey has advised us that 11 geodetic station markers have been identified that may be affected by the proposed abandonment.

The Department of the Army, Corps of Engineers (COE), Helena Regulatory Office has determined that, based on the information provided, no fill material is anticipated to be placed either temporarily or permanently in any waterway or a wetland of the United States. No COE permits are required for this project.

The U.S. Department of the Interior, Fish and Wildlife Service, Division of Ecological Services (FWS) Montana Field Office in Helena, Montana, has indicated that Federally-listed species that may be present in the vicinity of the proposed abandonment include the endangered black-footed ferret (*Mustela nigripes*), threatened bald eagle (*Haliaeetus leucocephalus*), and candidate black-tailed prairie dog (*Cynomys ludovicianus*). However, considering the specific scope, nature and location of the project, FWS does not anticipate any project related adverse impacts to listed, proposed, or candidate species. There is no critical habitat for any listed species designated or proposed in the project area. FWS knows of no lands administered as part of the National Wildlife Refuge system occurring near this project's location.

The Montana Fish, Wildlife and Parks, Region Seven Headquarters, in Miles City, Montana has indicated that they do not expect the proposed project to have significant effects on threatened or endangered species, other wildlife or their habitats, or recreational areas.

The Montana Department of Environmental Quality (MT DEQ) in Helena, Montana, has advised us that storm water discharges are permitted under the Montana Pollutant Discharge Elimination

System (MPDES). Coverage under the General Permit is necessary for storm water discharges if the project is resulting in ground disturbance totaling one or more acres that is part of a larger common plan of development or sale, and if there is storm water discharging pollutants to surface waters. MT DEQ indicates that there appears to be the potential for pollutant (such as disturbed sediment) discharge to nearby surface waters as the railroad appears to be parallel to or cross over some surface waters, and recommends that permit coverage be obtained. Accordingly, we will recommend a consultation condition requiring that BNSF contact MT DEQ to determine whether a MPDES permit is required.

BNSF has indicated that there is a possible used oil, fuel, or fertilizer spill between M.P. 49 and M.P. 50 at Circle, next to the tracks behind a John Deere dealer and Cenex fertilizer. At present, no additional information has been provided by BNSF about the possible spill.

## **HISTORIC REVIEW**

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. BNSF served the report on the Montana Historical Society (SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that, according to their records, there have been several previously recorded historic or archaeological sites within the designated project area. The SHPO states that any structures over fifty years of age are considered historic and therefore would need to be recorded before any modification takes place. The bridges and the railroad would be considered eligible for listing on the National Register of Historic Places. The SHPO, therefore, recommends that a cultural resource inventory be conducted prior to any ground disturbance, in order to determine whether or not sites exist and if they will be impacted. BNSF is retaining a qualified consultant to perform a survey and will provide that information to the Board and the SHPO as soon as the survey is available.

## **CONDITIONS**

We recommend that the following three environmental conditions be placed on any decision granting abandonment authority:

1. BNSF shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.
2. To address the concerns raised by the Montana Department of Environmental Quality in Helena, Montana, BNSF shall, prior to commencement of any salvage activities on this project, contact the Montana Department of Environmental Quality to evaluate any storm water discharge permitting requirements.

3. The National Geodetic Survey (NGS) has identified 11 geodetic station markers that may be affected by the proposed abandonment. Therefore, BNSF shall notify NGS 90 days prior to salvage activities in order to plan their relocation.

## **CONCLUSIONS**

Based on the information provided from all sources to date, we conclude that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **ENVIRONMENTAL COMMENTS**

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link.

**Please refer to Docket No. AB-6 (Sub No. 424X) in all correspondence addressed to the Board.** If you have any questions regarding this environmental assessment, you should contact Kenneth Blodgett, the environmental contact for this case by phone at (202) 565-1554, fax at (202) 565-9000, or e-mail at [blodgettk@stb.dot.gov](mailto:blodgettk@stb.dot.gov).

Date made available to the public: November 12, 2004.

Comment due date: **November 29, 2004 (15 days).**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams  
Secretary

Attachment

